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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,435	12/23/2003	John Baranowski	016354.0208	7528

24735 7590 07/30/2007

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EXAMINER

KUMAR, RAKESH

ART UNIT	PAPER NUMBER
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3654

NOTIFICATION DATE	DELIVERY MODE
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07/30/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptocorrespondence@bakerbotts.com
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Office Action Summary

Application No.

10/743,435

Applicant(s)

BARANOWSKI, JOHN

Examiner

Rakesh Kumar

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/30/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mikami (U.S. Patent Number 4,398,612) in view of Wooldridge (U.S. Patent Number 6,360,870).

Referring to claims 1-3 and 6-11. Mikami discloses a bulk or a single item dispensing system comprising;

- a feeder bowl (1) for receiving the items and for supplying the items to the one or more dispensing paths (3);
- a dispenser (Figure 1) comprising one or more dispensing paths (3) for dispensing items;
- a rotation drive for rotating the one or more dispensing paths; and
- and one or more dispensing heads (14 and 15), wherein each of the one or more dispensing heads (14 and 15) receives items from at least one of the one or more dispensing paths (3) and comprising;
 - a dispensing chute (chute for members 14 and 15) for directing a first plurality of the received items toward the dispenser, wherein at least one physical characteristic of each of the first plurality of the received items is within a predetermined range of physical characteristics (weight);
 - and a diversion chute(20) for directing a second plurality of the received items away from the dispenser;
- wherein the system further comprises one or more sensing units (8,8',13 and 14), wherein each of the one or more sensing units (8,8',13 and 14) measure the at least one physical characteristic (weight) of at least one portion of the items dispensed from at least one of the one or more dispensing paths (3),
- wherein each of the dispensing heads (13 and 14) receives items from at least one of the dispensing paths (3) via at least one of the sensing units (8,8',13 and 14);

each dispensing head (13 and 14) comprises a holding chamber (Col. 4 and 30-50) directing the path of the items by the opening and closing of members (17 and 18);

the dispenser comprising a vibration device (7) for vibrating the dispensing paths, a second vibration device (2) for vibrating a feeder bowl (1) controlled by a control unit (Figure 6-9).

Mikami does not disclose a rotation drive for rotating the one or more dispensing paths.

Wooldridge discloses a feeding and sorting apparatus wherein a rotation drive rotates (Figure 3) one or more dispensing paths (26) in order to dispense articles.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Mikami to include a rotation drive for rotating the one or more dispensing paths as taught by Wooldridge because the articles would be moved along the dispensing paths at an increased speed.

Claims 4, 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mikami in view of Wooldridge as applied to claim 1 above, and further in view of Hudson (U.S. Patent Number 3,782,878).

Referring to claims 4,5 and 12. Hudson discloses a rotary dispenser (Figure 2) comprising a rotatable star wheel (21; Col. 2 line 30) comprising a plurality of container-

receiving grooves (21a) for positioning containers (20; Figure 1-3) in alignment with one of the dispensing heads (15, strainer),

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the apparatus of Mikami in view of Wooldridge and include a star wheel as taught by the teaching of Hudson because the apparatus could position containers in alignment to be filled as the items are dispensed from the dispenser.

Claim 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Mikami in view of Wooldridge and Hudson as applied to claim 12 above, and further in view of Simionato (U.S. Patent Number 5,613,590).

Referring to claim 13. Simionato disclose a dispenser apparatus comprising a conveyor as a delivery means (Figure 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the apparatus of Mikami in view of Wooldridge and Hudson to include a conveyor as a delivery means to deposit items onto the feeder bowl as taught by Simionato because it would prevent jamming of the apparatus.

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection. See modified rejections above.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wooldridge discloses a feeding device wherein the dispenser comprising one or more paths that are rotated to deliver articles along a path. Wooldridge teaches rotation of the one or more paths to aid in the dispensing of the articles. As stated above Mikami does not disclose a rotation drive for rotating one or more paths. In the view of the Office it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the apparatus of Mikami to include a rotation drive for rotating the dispensing paths as taught by Wooldridge because the rotation of the dispensing paths would increase the flow of the articles leaving the dispensing paths.

Conclusion

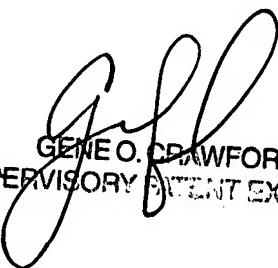
The prior art made of record and not specifically relied upon is considered pertinent to applicant's disclosure in this application are cited in the document labeled "Notice of References Cited" along with this Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RK
July 20, 2007


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER